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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/162,402	09/28/1998	RICHARD MCNALLY	M0971/7001	8813

7590 02/08/2005

SHLESINGER ARKWRIGHT & GARVEY LLP  
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ARLINGTON, VA 22202

EXAMINER
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NGUYEN, BINH AN DUC

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/162,402

Applicant(s)

MCNALLY ET AL.

Examiner

Binh-An D. Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 11, 13-16, 18-22, 24, 26-29, 31-35, 37, 39-43, 45-49, 51, 53-56, 61, 67-71 and 73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Continuation of Disposition of Claims: Claims pending in the application are 1-3,5-9,11,13-16,18-22,24,26-29,31-35,37,39-43,45-49,51,53-56,61,67-71 and 73.

### DETAILED ACTION

1. The Amendment filed December 2, 2004 has been received. According to the Amendment, claims 1, 2, 3, 11, 13, 14-16, 24, 27-29, 37, 41-43, 51, 55, 61, 67, 71, and 73 have been amended; and claims 4, 10, 12, 17, 23, 25, 30, 36, 38, 44, 50, 52, 57-60, 62-66, 72, and 74 have been canceled. Currently, claims 1-3, 5-9, 11, 13-16, 18-22, 24, 26-29, 31-35, 37, 39-43, 45-49, 51, 53-56, 61, 67-71, and 73 are pending in this application. Acknowledgment has been made.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-9, 11, 13-16, 18-22, 24, 26-29, 31-35, 37, 39-43, 45-49, 51, 53-56, 61, 67-71, and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over McPhee (2,321,692) in view of Wayner (5,557,717).

McPhee teaches an article of manufacture which report drives of a football game with charts (on chart sheets 4) (Fig.1) comprising: a substrate (chart sheet 4); a plurality of symbols (lines in different colors, 4:27-57) representing distinct and individual plays; a plurality of parallel lines 6 rendered on the substrate; a plurality of line segments (L) corresponding to yard lines on the football field at which the one of the at least two plays

began and ended; illustrating different plays, each of the play can be distinguished from other plays (Fig.1). See the entire McPhee reference.

McPhee does not explicitly teach the limitations of symbols identifying player involving in each of the plays (claim 8), or at least two plays (claims 21, 34, 48), or responsible for moving the ball in the field during at least two plays (claims 9, 22, 35, 49); an apparatus for rendering a diagram represent a football game having a processor, a display, computer-readable medium (claims 27, 41, 50, 71, and 73); user inputting data; rendering a plurality of symbols (or different types of symbols) representing at least two distinct and individual plays along a path such that each of the at least two distinct and individual plays can be distinguished from one another (claims 1, 4-7, 14, 27, 41, 45-47, 55 and 61). Wayner, however, teaches a method and device for graphical display of a sporting contest comprising symbols identifying player involving of responsible for moving the ball in the field during each of the play (Fig.5); an apparatus for rendering a diagram represent a football game having a processor, a display, computer-readable medium (Fig.6)(9:60-11:53); user inputting data; and plurality of symbols (different graphical forms with patterns composed of specially designed glyphs, line structures or drawings) each representing individual and distinct play for setting game plays (6:45-7:5; 8:55-9:56). Wayner further teaches each of the play can be distinguished from other plays (8:56-9:6). See also, Figs.2A-3; and columns 1-6.

Note, regarding the limitations of rendering a plurality of symbols representing at least two distinct and individual plays along a path such that each of the at least two

Art Unit: 3713

distinct and individual plays can be distinguished from one another; and the plurality of symbols including a plurality of line segments representing a corresponding one of the at least two plays, and the plurality of line segments including different types of line segments to represent different types of plays (claims 1, 14, 27, 41, 55 and 61), these limitations can be accomplished by applying Wayner's teaching of using different graphical forms with patterns composed of specially designed glyphs, line structures or drawings for indicating regions of interest. (8:56-67).

Further, regarding the limitations of illustrating symbols representing all plays as occurred during a quarter, during a half, or during an entire game (claims 5-7, 18-20, 31-33, and 45-47); the plurality of line segments joined end-to-end (claims 24, 37, 50), those limitations are design choices since they do not provide unexpected results.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide the graphical display method and device for sporting contest utilizing different specially designed symbols of Wayner to McPhee's game charting device to enhance reality and details of a computer-implemented football game illustration system thus attract more readers/users and increase profit.

4. Applicant's arguments filed December 2, 2004 have been fully considered but they are not persuasive. Applicant's arguments with respect to Wayner not disclose using different segments to identify a type of play (applicant's response, page 26, lines 16-24) is not persuasive. Wayner's teaches using different graphical forms with patterns composed of specially designed glyphs, line structures or drawings for indicating

regions of interest (8:56-67), and further, using sequences of marks and information that may appear in either graphical, textual or symbolic form with multicolor (9:18-21).

Further, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, McPhee teaches an article of manufacture which report drives of a football game with charts wherein a plurality of symbols (lines in different colors, 4:27-57) representing distinct and individual plays, and Wayner teaches a method and device for graphical display of a sporting contest using different symbols to identify player responsible for moving the ball in the field during each of the play thus it would have been obvious to a person of ordinary skill in the art to provide the graphical display method and device for sporting contest utilizing different specially designed symbols of Wayner to McPhee's game charting device to enhance reality and details of a computer-implemented football game illustration system.

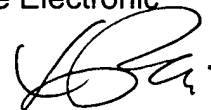
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



XUAN M. THAI  
PRIMARY EXAMINER

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